

REMARKS

Examination of the application is respectfully requested.

I. Status of the Claims

Claims 35 - 39, 42 - 44, 48 and 49 are currently pending, with claims 1 - 34, 40, 41 and 45 - 47 having previously been canceled.

Claims 35 - 39, 42, 43, 48 and 49 are presently amended for improved clarity. No new matter is introduced.

II. Response to Information Requirement under 37 C.F. R. § 1.105

An Office Communication was mailed on January 26, 2007, indicating that Applicants were required under 37 C.F.R. § 1.105 to provide certain information that Examiner Weisberger deems necessary to the examination of the present application: a) Examiner access to Assignee Optionable Inc.'s OPEX options trading platform, and b) an agreement or disagreement as to a proposed stipulation as to certain facts in regard to other commercial options trading systems.

a. OPEX Options Trading Platform

Because Optionable's OPEX options trading platform is a live commercial system presently in use, it would be practical for Examiner Weisberger to access this system by way of an in-person interview with the Examiner in which Applicants would provide a controlled demonstration of the OPEX platform. On or before June 12, 2007, Applicants' representative contacted Examiner

Weisberger to schedule this demonstration with the Examiner at the United States Patent & Trademark Office (USPTO). At the Examiner's request, the demonstration was scheduled for Tuesday, June 26, 2007.

Applicants' representative attempted on several occasions thereafter to confirm the scheduled demonstration with the Examiner, both by voice-mail and by phone. On Friday, June 22, Examiner Weisberger replied by e-mail, asking whether the demonstration could be re-scheduled for July 2. Applicants' representative replied by phone shortly thereafter, indicating that Applicants' availability during the week of July 2, 2007 was limited to July 3 and July 5 (July 4 being a national holiday). On July 3, Applicants' representative replied again by e-mail, asking Examiner Weisberger to indicate his availability over the period of July 9 through July 19, and reminding the Examiner that the deadline for responding to the present Office Action is July 26, 2007 with no further extension being available. Applicants' representative received no reply and was unable to reach the Examiner.

On or about July 13, 2007, Applicants' representative contacted the Examiner's supervisor, SPE James Kramer, for assistance in scheduling the OPEX demonstration. SPE Kramer indicated that he would ask the Examiner to contact Applicants directly to schedule the demonstration. On or about July 20, 2007, Applicants contacted SPE Kramer again, as no contact had been made with the Examiner.

Applicants' representative spoke again with SPE Kramer on July 24, 2007. SPE Kramer indicated that he found Applicants' efforts to schedule the demonstration with Examiner Weisberger

to constitute a bona fide response to the Examiner's requirement under 37 C.F.R. § 1.105 to provide access to the OPEX trading platform, and that no further action would be required by Applicants at this time to respond to this requirement. Applicants' representative indicated that, upon request, Applicants remain ready to demonstrate the OPEX system to Examiner Weisberger at the USPTO at a mutually-agreeable date and time.

b. Requested Stipulation of Facts

In the Office Communication mailed on January 26, 2007, Examiner Weisberger further required Applicants' agreement or disagreement under 37 C.F.R. § 1.105 as to the stipulation of the following asserted facts:

"The systems known as ProOptics and/or OptionsXpress and/or Interactive Broker, and/or CyberTrader [were] available prior to the filing date of the instant application."

In order to respond to this request, Applicants' representative discussed this matter with knowledgeable individuals in the inventors group¹ and assignee group. None of the knowledgeable individuals had specific knowledge as to whether ProOptics and/or OptionsXpress and/or Interactive Broker, and/or CyberTrader were available prior to the filing date of the present application. Therefore, Applicants do not have sufficient knowledge to respond to this requested stipulation of facts.

¹ Certain of the co-inventors of the present application are no longer employed by the Assignee.

CONCLUSION

Applicant believes the pending application is in condition for allowance. Accordingly, the Examiner is respectfully requested to examine this application and pass it to issue.

The Examiner is respectfully requested to contact the undersigned at the telephone number indicated below if the Examiner believes any issue can be resolved through either a Supplemental Response or an Examiner's Amendment.

Dated: July 26, 2007

Respectfully submitted,

By 
Thomas J. Bean

Registration No.: 44,528
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant